

RECORD OF ORAL HEARING
U.S. PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG ELECTRONICS, AMERICA, INC.,
Petitioner

v.
FENDGO, LLC,
Patent Owner.

Case IPR2024-00113 (Patent 11,265,404 B2)
Case IPR2024-00114 (Patent 11,265,404 B2)

Oral Hearing Held: February 19, 2024

Before JON M. JURGOVAN, SCOTT MOORE, and AARON W.
MOORE, Administrative Patent Judges.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing
Wednesday, February 19, 2025, commencing at 10:00 a.m. EST,
via Video-conference.

P-R-O-C-E-E-D-I-N-G-S

10:00 a.m.

JUDGE JURGOVAN: Good morning everyone. This is the consolidated trial hearing for IPR 2024-00113, concerning U.S. Patent 11,265,404 B2 & IPR 2024-00114, concerning different claims of the same patent. The date is February 19, 2025. It's 10 o'clock Eastern. On the panel with me today are Judges Scott Moore replacing James Mayberry by order yesterday, Aaron Moore, and myself Jon Jurgovan.

Would the parties please enter their appearances starting with Petitioner, please?

MR. SHARIFAHMADIAN: Good morning Your Honors. I'm Ali Sharifahmadian of of Arnold & Porter representing Petitioners Samsung Electronics Company., Ltd, and Samsung Electronics, America, Inc. We're joined today by party of representative, Mr. Matthew Bathon, who is senior legal counsel at Samsung Electronics. I'm also joined by my partner Patrick Reidy, of Arnold & Porter.

JUDGE JURGOVAN: Thank you. Patent Owner?

MR. NUTALL: Good morning. Jay Nuttall and Sadaf Misbah from Steptoe & Johnson on behalf of the Patent Owner.

JUDGE JURGOVAN: Okay. Thank you. As stated in the hearing order each party will have 75 minutes to present their arguments. Because Patent Owner submitted a LEAP request in this case Patent Owner is afforded an additional 15 minutes, so a total of 90 minutes.

1 Petitioner bears the burden of proving its case by a
2 preponderance of the evidence and so therefore Petitioner will begin
3 its presentation followed by Patent Owner. You may each reserve
4 time for rebuttal limited to the opposing party's presentation. You can
5 share demonstratives so that we can see them on our screens or if you
6 prefer we can follow along with the record. We have access to them.

7 When referring to demonstratives and exhibits please do so by
8 page number or paragraph number as appropriate so that the transcript
9 will be clear as to what you're referring to. Please do identify
10 yourselves as you begin speaking so that the court reporter will know
11 who you are and then after the hearing please remain on the line so
12 that the court reporter can resolve any terms that may have been used
13 but not understood.

14 This is a public hearing. There may be third-parties listening
15 on the line. None of the information in this hearing is been designated
16 as confidential. If for some reason you need to discuss confidential
17 information please let us know in advance so that we can close the
18 public line.

19 If at any time you experience technical difficulties that impair
20 your ability to represent your client, please let us know if you can and
21 contact the number given to you to resolve the matter. We'll observe a
22 pause until the issue is resolved. Do the parties have any questions
23 before we begin?

24 MR. SHARIFAHMADIAN: Not about anything that you said,
25 Your Honor, but we did have a question about how the Board would

1 prefer that the presentations occur? Would you prefer to discuss the
2 113 matter first and then proceed to the 114? Or for Petitioners to
3 present their arguments with respect to both proceedings first?

4 JUDGE JURGOVAN: I think it make sense to go 113 and then
5 114. But if for some reason you want to proceed out of order you can
6 use your time as you see fit.

7 MR. SHARIFAHMADIAN: That's perfectly fine with us. So
8 we'll proceed with the 113 first, be done with that and then proceed
9 through the 114.

10 JUDGE JURGOVAN: Okay. And let's see, Petitioner, how
11 much time would you like to reserve for rebuttal?

12 MR. SHARIFAHMADIAN: So we will use 40 minutes on our
13 opening of 113 and 15 minutes for rebuttal on the 113. Leaving 20
14 minutes for the 114 case.

15 JUDGE JURGOVAN: Okay. Thank you. Patent Owner, how
16 much time would you like to reserve?

17 MR. NUTTALL: We'd like to reserve 15 minutes for the 113
18 rebuttal, and I think maybe 10 minutes for rebuttal on the 114.

19 JUDGE JURGOVAN: Okay. So you're reserving 25 minutes.
20 Okay. Petitioner you may begin with ready.

21 MR. REIDY: May it please the Board, my name is Patrick
22 Reidy on behalf of the Samsung Petitioners. I'll be addressing the
23 disputes today with respect to the 113 IPR.

1 With reference to slide 3, as the Board knows the petition
2 includes grounds 1 through 4, based on three primary references,
3 Walker, Zellner, and Martin.

4 With reference to slide 4, Patent Owner raises three disputes
5 with Samsung's petition. The first dispute is whether Walker and
6 Martin disclose or suggest transmitting owner identification
7 information. As I'll explain further this argument should be rejected.

8 Walker discloses that the remote data storage facility creates a
9 link between the transmitted information and the device owner's
10 identity. Petitioners submit and as Patent Owner's expert admits this
11 means that the transmitted information must necessarily include
12 information that identifies the owner. This is owner identification
13 information.

14 At a minimum it would have been obvious to modify Walker to
15 transmit owner identification information to facilitate creating that
16 link and to advance Walker's objective to locate all individuals at the
17 scene of the event or the crime.

18 As to Martin, Patent Owner appears to have abandoned this
19 argument and made a single statement in the introduction to the Patent
20 Owner response which was not further supported by any other
21 argument or evidence. But at any rate, Petitioners submit that Martin
22 teaches this feature because Martin discloses transmitting a user
23 profile to the called party.

24 The second dispute the Patent Owner raises is whether Walker,
25 Zellner, and Martin disclose transmitting information to a quote,

1 specified location. This argument should be rejected because it hinges
2 on an argument that requires rewriting the claim language to require a
3 user-specified, to require a user-specified location. And there's no
4 support in the claims, the specification, or the prosecution history for
5 that rewrite of the claims.

6 The third dispute the Patent Owner raises is whether Martin
7 discloses transmitting the emergency information and the specific
8 information when the panic button is activated. As I'll explain further
9 this argument should be rejected because it is unsupported by any
10 evidence in the record. The only evidence in the record is from
11 Petitioner's expert, Dr. Michaelson, who explained that the transmitted
12 information is transmitted at computer speeds and contemporaneously
13 after the panic button is pressed.

14 With reference to slide 10, and 11, there's no dispute that
15 Walker discloses transmitting that, sorry. There's no dispute that
16 when Walker's panic button is pressed the remote data storage facility
17 transmits information to the remote data storage facility and that the
18 remote data storage facility creates a file which is linked with the
19 device owner's identify. Petitioner submits that this means, it
20 necessarily means that there's some information being transmitted
21 with the other data to identify the device owner and that this is owner
22 identification information.

23 The Board made this observation in the institution decision
24 explaining that without this information the data storage facility could

1 not associate the transmitted data with the electronic file linked to the
2 device owner's identity.

3 And as shown slide 13, patent's owner expert admitted the issue
4 on cross-examination, stating I would agree that there must be
5 something within the transmitted information that allows the data
6 storage facility to create that link. That something is owner
7 identification information.

8 Patent Owner did not address or dispute its expert's testimony
9 in the sur-reply.

10 JUDGE JURGOVAN: Counsel, can I interrupt you for a
11 second? Does the information that links the file have to be owner
12 identification information? Why couldn't for example it be the
13 telephone number or the email address, that of course email and SMS
14 and MMS would use?

15 MR. REIDY: So Petitioners submit as explained in the petition
16 that owner identification information is simply information to identify
17 the owner. And so it could be any information that can be used to
18 identify the owner. Patent Owner has not --

19 JUDGE JURGOVAN: So it's telephone --

20 MR. REIDY: Sorry, go ahead.

21 JUDGE JURGOVAN: So in other words the telephone number
22 identifies the owner, or the email address identifies the owner in your
23 view?

24 MR. REIDY: To the extent that the remote data storage facility
25 uses the phone number to associate the transmitted information with

1 the device owner's identity, then yes, the telephone number is owner
2 identification information. It could be a user ID, it could be an
3 account, it could be the user's name. But there's some information
4 included in the transmitted data that allows the remote data storage
5 facility to link the information to the device owner's identity.

6 Whatever that information is is owner identification information.

7 JUDGE JURGOVAN: Thank you. I understand your position.

8 MR. REIDY: Thank you, Your Honor. Even if Walker does
9 not expressly disclose this feature it nevertheless would have been
10 obvious to modify Walker to do so. As explained Walker discloses
11 that the remote data storage facility creates a link between the
12 transmitted information and the device owner's identity, and
13 Petitioners submit it would have been obvious to transmit the owner
14 identification information to facilitate creating that link.

15 Walker also discloses as shown on slide 18 that the invention
16 enables police to locate all individuals who activate the function of the
17 device. Petitioners submit it would have been obvious to transmit the
18 owner identification information to advance its objective.

19 And finally Petitioners note that Patent Owner has not disputed
20 the techniques for transmitting owner identification information are
21 well known in the art and within the skill of a POSITA as explained
22 by Petitioner's expert, Dr. Michaelson and corroborated by the Chang
23 reference.

24 As to Martin as I noted earlier Patent Owner made a single
25 statement in the introduction of the Patent Owner response that Martin

1 does not disclose transmitting owner identification information.

2 Patent Owner did not otherwise address this issue in its Patent Owner
3 response, and we raise this point in the reply and Patent Owner did not
4 address it in the sur-reply, so Petitioner's understanding is that Patent
5 Owner has abandoned this argument.

6 But in any event as shown on slide 23, Martin discloses that a
7 user profile which includes the name of the user of the wireless device
8 is sent to establish a communication session or during the
9 communication session and because the user of the device is more
10 often than not the owner of the device, Petitioners submit that this
11 meets the claim.

12 The second dispute raised by Patent Owner is whether Walker,
13 Zellner, and Martin disclose transmitting the emergency information
14 to, quote, a specified location. The term, specified location, is used in
15 the 404 patent once. It states that MMS, multimedia messaging
16 service, is one method of enabling the present invention to obtain
17 video and audio information and send the data to a specified location.

18 As the Board observed in the institution decision there is no
19 language in the claim that requires the specified location be
20 user-specified. The most the Patent Owner expert can say is that the
21 404 patent does not expressly disclose the quote, fixed recipient,
22 embodiment and that the 404 patent contemplates that the user is able
23 to specify the recipient. But that's not enough to rewrite the claims.

1 JUDGE JURGOVAN: Before you move on, Counsel, the
2 word, location, there—is that referring to a network destination or is
3 that referring to physical location?

4 MR. REIDY: I think that it can refer to both. As I said, the
5 specification only uses the term, specified location, once and it is in
6 the context of describing the protocols that can be used to transmit the
7 information. So I think at a minimum it includes a location that can
8 be specified for example with MMS, or TCP/IP as explained here,
9 shown on slide 33.

10 JUDGE JURGOVAN: Thank you.

11 MR. REIDY: We'd also point out that Patent Owner's
12 interpretation of specified location would arguably read out
13 embodiments of the 404 patent. In contravention of the Federal
14 Circuits precedent in *Eko Brands* as shown on slide 37.

15 On slide 38, we can see there's an embodiment in the 404 patent
16 that discloses programming, or cellular telephone that comply with
17 E911, which automatically contact 911 upon a press of the panic
18 button. Insofar as this embodiment suggests the device is compliant
19 with the E911 and so will automatically contact 911 if the panic
20 button is pressed. This would not fit within Patent Owner's
21 interpretation of the claim requiring a user-specified location.

22 And finally on this issue, Petitioners submit that Patent Owner
23 very well could have tried to amend the claims to add this limitation,
24 add this limitation of user specified location to the claims but they
25 chose not to do so.

1 On the evidence, Walker's disclosure is essentially equivalent to
2 what the 404 patent discloses, explaining that the information can be
3 transmitted by email, by dial-up connection, by email, or electronic
4 messaging service as explained by Petitioner's expert, a person who is
5 skilled in the art understood a reference to electronic messaging
6 service to include MMS, exactly as disclosed by the 404 patent.

7 Zellner as shown on slide 48, expressly discloses that the user
8 can program the IP device with pertinent data about the emergency
9 services center 12, including the name of the emergency services
10 center, the IP address of the emergency services center, the telephone
11 and name of a contact person at the emergency services center, and
12 email address at the emergency services center. This is, this is a user
13 specified location and fits within Petitioner's narrow interpretation of
14 the claim. And finally Martin disclose creating a relationship between
15 a specific number such as 911 in a keystroke sequence.

16 All right. The last dispute raised by Patent Owner is whether
17 Martin discloses sending the emergency information and the specific
18 information when the panic button is activated. Martin discloses that
19 entering the keystroke sequence with the keyboard key triggers the
20 device to perform various tasks to include transmitting location and
21 content information including image and audio data.

22 Patent Owner raised an argument in the preliminary response
23 that the petition failed to establish that the data is transmitted at the
24 same time and together. In the institution decision the Board noted

1 that there was, we do not find any language requiring image data,
2 audio data, and location data to be sent at the same time.

3 And then the Patent Owner response, Patent Owner made the
4 same argument effectively copying exactly what was in the
5 preliminary response without adding anything to the record. The only
6 thing in the record new since the institution decision is Petitioner's
7 expert testimony on cross-examination explaining that Martin
8 discloses to a person of skill in the art transmitting the location,
9 image, and audio data at computer speeds through a single
10 communication path and thus contemporaneously in at the same time.

11 To the extent, unless the Board has any other questions, I'll
12 reserve the remainder of my time for rebuttal. Thank you.

13 MR. NUTTALL: Good morning. Let me share my screen
14 here. Okay. Can everyone see that okay?

15 JUDGE JURGOVAN: Yes, we can.

16 MR. NUTTALL: Great. Thank you. Jay Nuttall from Steptoe
17 on behalf of the Patent Owner. I am here talking about what I'll refer
18 to as the 404 patent, which was a new novel and nonobvious
19 emergency personnel protection system. And if we could, if we look
20 at slides 4 through 6, really, I think it's important to look at, you
21 know, what was the 404-patent directed to, what does it claim and
22 why is that different from some of these prior art references that
23 Petitioner has raised?

24 We know that Ms. DiPerna invented a new way to have a self
25 defense device that protects somebody when they were being attacked

1 or confronted in real time and this is in our paper but just to generally
2 show from a high level, if you're in a situation, you have a device like
3 a mobile phone, which the 404 patent talks about, you have a panic
4 button that you can press that takes video, audio, location information,
5 it calls that emergency information, and it sends that with your owner
6 identification information to some specified location. So you can
7 specify whether that's somebody you know, or to an emergency
8 system, and that's what this patent is really talking about.

9 I think it's important to start with, you know, I'm sure the Board
10 is aware the understanding that, you know, the Petitioner bears the
11 burden of proof, and they admit that there is no prior art references
12 that disclose everything that is claimed in the claims that are at issue
13 in the 113 IPR. Their argument is that it would have been obvious
14 based on a few different references. Admittedly none of those
15 references disclose all of the elements of the claim. They all either
16 have to be modified in some way or have to be combined with other
17 references to arrive at the claims at issue.

18 Patent Owner contends that Petitioner has failed to meet its
19 burden and while Petitioner, you know, attacks or responds to some of
20 the arguments in Patent Owner's response it's always Petitioner's
21 burden to prove that all of these claim elements were known.

22 So with that we can turn to, and I'll just note we've approached this a
23 little bit differently than Petitioner. We will try to walk through each
24 ground and try to explain why we don't think they've met their burden
25 of proof as opposed to by issues.

1 So ground 1 relates to Walker, and this is a little bit different
2 than the 404 patent. This relates to a system where you have a
3 database, a storage facility. This patent talks about somebody's going
4 to provide their information and its stored in a database storage
5 facility ahead of time. And at a later time somebody could be
6 witnessing a crime, could take video or, you know, would send that
7 information to this data storage facility. And admittedly there's a
8 database link between that file and the account. And we'll talk about
9 that more in a minute.

10 And then later at a future time the police can access those files
11 and say let's look at the video to see if we can identify the suspect or
12 other people that were around there. So fundamentally it's talking
13 about something different than the 404 patent is directed to. But I
14 think one of the key elements is this database link, and whether or not
15 that is owner identification information which the asserted claims all
16 require that you include owner identification information, and that
17 owner identification information is sent to a specified location when a
18 panic button is activated.

19 So this, I'm on slide 13 now of Patent Owner's demonstrative.
20 This is the only disclosure in Walker that Petitioner relies on. This
21 idea that there's some database link when a file is sent so that it can be
22 connected to an owner's account. And there's this argument from
23 Petitioner that that necessarily has to be owner identification
24 information. And we fundamentally disagree with that.

1 It's actually probably a database, you know, number or some
2 kind of file ID that correlates it with what gets prestored in the storage
3 unit. There is nothing in this disclosure, certainly nothing expressly in
4 Walker, that says owner identification information is sent and that's
5 what's used. Just to the contrary, in Walker you store owner
6 identification information ahead of time. That's when you create your
7 account. You go to the storage facility and say, I want to put in my
8 information and store that then.

9 So we understand that the Board, you know, in the institution
10 decision said on that record, you know, there was enough to institute,
11 but Patent Owner maintains that this disclosure does not expressly
12 disclose the sending of owner identification information.

13 JUDGE S. MOORE: Mr. Nuttall, Counsel, can I interrupt for a
14 second?

15 MR. NUTTALL: Please.

16 JUDGE S. MOORE: So owner identification information, I
17 think Petitioner is viewing that as for example a telephone number or
18 an email address is owner identification information because it is
19 information that can be used to identify the owner. How do you
20 respond to that?

21 MR. NUTTALL: I would respond that there's no disclosure
22 that a telephone number is sent here or an email address.

23 JUDGE S. MOORE: Just a minute, I mean --

24 MR. NUTTALL: Yes, but --

1 JUDGE S. MOORE: -- I think that the 404 -- let me just
2 interject here that I think that the 404 patent is talking about email
3 messaging and MMS messaging which do use email addresses and
4 telephone numbers. That's how that communication's happening. It's
5 part of the protocol.

6 MR. NUTTALL: Understood and we would agree that owner
7 identification information can include the owner's telephone number.
8 So in the 404 patent when it's talking about sending owner
9 identification information which it expressly discloses in claims, yes,
10 it would be their name, their telephone number.

11 Walker is saying you're sending a file, some kind of datafile
12 and this storage facility is going to figure out some way to link that to
13 what you've already prestored. And there is no disclosure that that
14 link is the owner's telephone number or the owner's other information.
15 It's most likely a database link that somehow it can connect that file
16 with what's prestored. There's certainly no --

17 JUDGE S. MOORE: Mr. Nuttall, isn't that, isn't the unique
18 database link that identifies the owner's information in the database,
19 owner identification information? I mean that's what it does. It
20 identifies the owner identification information in the database.

21 MR. NUTTALL: I would argue that a serial number of 30
22 different numbers is not owner identification information, Your
23 Honor. And that's --

24 JUDGE S. MOORE: Even if it's, even if it's in a table in the
25 database and that number is the unique key to the database entry that

1 contains the owner's name, address, phone number? How does that
2 not, how does that key, whatever you want to call it, that link, that
3 unique link to, you know, a record in a database?

4 If that database contains the owner's identification and that key
5 is transmitted, how is the key, I mean that's what the key does. It
6 identifies the owner information. So it seems like the key would be
7 owner identification information, don't you agree?

8 MR. NUTTALL: I don't agree. I think if I sent you a barcode
9 with a bunch of serial numbers on it, you would not be able to identify
10 me as that barcode relates to me. You would have to go --

11 JUDGE S. MOORE: If I had, If I had, if I had a table in front
12 of me that had people's names and different barcode and beside each
13 barcode was a key person's name, I could look at that barcode, which
14 which person it referred to and yes, I could identify it.

15 MR. NUTTALL: I guess you'd have to go to the storage
16 facility and figure out how they keep that and if you can get that
17 information and if you --

18 JUDGE S. MOORE: If you had the database, that's a known
19 data structure, it's got a unique key that's not, I mean we're talking
20 semantics here. I think you're, you know, the barcode as I understand
21 it is that the actual identity of the owner that has to be transmitted. So
22 I think you're reading this as, maybe I'm over simplifying it, but I
23 think you're reading this claim limitation as owner identification
24 information, that it would have to actually be the identify of the owner

1 transmitted rather than just information that could identify the owner,
2 which is how I was reading this.

3 MR. NUTTALL: Understood. I think it's a fair assessment of
4 our position that we disagree that a database link if owner
5 identification information that the 404 patent talks about an owner's
6 name, telephone, something that actually says, you know, Honorable
7 Scott Moore and we would say, we can look at you and say that's this
8 person, not, you know, some database code or barcode or some other
9 serial number that somebody would have to go a data storage facility
10 to try to determine who the owner is.

11 JUDGE S. MOORE: All right. I understand that. The problem
12 I'm having with that is it seems like it, you know, and I admittedly had
13 a little less time to come to speed than my colleagues, but I have, you
14 know, reviewed the patent and I'm having it, I don't see anything in
15 the claim that limits this claim term that is, you know, any explicit
16 claim limitation that limits this claim term in the way you're proposing
17 and I, you know, I understand that the specification gives different
18 examples but I don't see anything that would limit this claim term to
19 the examples you're discussing from the specification of the 404
20 patent. So I'd appreciate it if you could address that.

21 MR. NUTTALL: I think the plain and ordinary meaning of
22 owner identification information is and based on the specification and
23 the prosecution history and what one skilled in the art would
24 understand is that it has to have the owner's name or telephone
25 number or something that's consistent with what the patent discloses

1 not a database link or some serial number of some other, you know,
2 form of information that requires other steps to figure out who the
3 owner is.

4 The whole purpose of the 404 patent is so that when your real
5 time being, you know, you have a situation, you're being attacked, and
6 you transmit that information to either your contact or the police that
7 they know who it is. And that's not what Walker teaches. Walker
8 teaches that you have a database that somebody's going to later go
9 look at and maybe there's a barcode number that they could use to try
10 to look up in their files who the actual owner is. But that is not what
11 the 404 patent is talking about.

12 We respectfully maintain that the claims, the owner
13 identification information, you have to actually, it has to have the
14 owner's name or telephone number or email what the patent talks
15 about for all identification information.

16 JUDGE S. MOORE: Yes, but you're not arguing there is some
17 lexicographic definition or disclaimer that limits the claim term in that
18 way, are you?

19 MR. NUTTALL: I'm sorry. I missed part of that, Your Honor.
20 Could you please just repeat that question?

21 JUDGE S. MOORE: I'm just trying to understand your
22 argument and it seems like you're making an argument that the
23 specification in essence defines the claim term. I'm just trying to
24 understand exactly what the basis for this is. You're not arguing that

1 there is a lexicographic definition of this claim term in the
2 specification, are you?

3 MR. NUTTALL: No, Your Honor. We're asking --

4 JUDGE S. MOORE: You're not arguing that there's an explicit
5 disclaimer of claim scope or anything like that?

6 MR. NUTTALL: No. No, Your Honor. We're --

7 JUDGE S. MOORE: And so this is a situation where you're
8 arguing, and please correct me if I'm wrong, but this is a situation
9 you're arguing that the specification in effect defines this as the
10 invention and because of that, you know, it's so clear in that regard
11 that we should limit the claim term in this way? Is that what you're
12 arguing?

13 MR. NUTTALL: I wouldn't put it that way, Your Honor. I
14 would say we're arguing that the term should be given its plain and
15 ordinary meaning consistent with the patent and the patent does not
16 say send a database barcode number as owner identification
17 information.

18 JUDGE S. MOORE: All right. The patent doesn't say that but
19 that doesn't mean that the claim plain and ordinary meaning excludes,
20 the plain and ordinary meaning doesn't exclude everything that the
21 patent doesn't explicitly mention.

22 MR. NUTTALL: No, but there's also no evidence that anyone
23 skilled in the art considers that owner identification information, Your
24 Honor.

25 JUDGE S. MOORE: Great, thank you.

1 MR. NUTTALL: That would be our, that's our position. We
2 don't think that's expressly disclosed. With respect to Petitioner's --

3 JUDGE JURGOVAN: Counsel, following up on the question,
4 as used in the 404 patent, what is owner identification information?

5 MR. NUTTALL: What's included in the patent, the owner's
6 name --

7 JUDGE JURGOVAN: Okay. What is included in the patent
8 for owner identification information?

9 MR. NUTTALL: I would say I'll let the patent speak for itself,
10 but my recollection is that name, telephone number and email are
11 what are included in the 404 patent.

12 JUDGE JURGOVAN: Thank you.

13 MR. NUTTALL: Now Petitioner I think understood that this
14 doesn't expressly disclose those things we just talked about so they
15 argued it was obvious to modify Walker, but we would, I think what's
16 missing from that argument as I understand it, you'd have to modify
17 Walker. If you're going to send that information what's the point of
18 having an account set up ahead of time and store all the user
19 identification information in a data storage facility. So we maintain
20 that it's not obvious to modify Walker. It would be contrary to the
21 expressed teachings in Walker. With respect to Petitioner's argument
22 that the police would want to know this information. According to
23 Walker the police can access the data storage facility later and identify
24 that information. So it's already there in Walker and so there would
25 be no motivation to modify Walker as Petitioner suggested. And with

1 respect to the Chang reference that Petitioner referred to, that is not a
2 system that has a facility where a user sets up an account ahead of
3 time and there would be no reason to combine Chang and Walker, nor
4 have they suggested that you do that, but you wouldn't modify Walker
5 to be a completely different system than what's disclosed including
6 this data storage facility and some link being sent. So for all those
7 reasons we disagree that there's a motivation to modify and change
8 Walker from its disclosures.

9 Unless there's any other questions about the owner
10 identification information, I'll move to the next issue with Walker
11 which is the specified location.

12 I know we've been, I should say, Petitioner talked about this a
13 little bit, the specified location. The specified location, we looked at
14 the patent where it talks about using an MMS message which is, you
15 know, a way to communicate between two cell phones. And the
16 patent talks about the user being provided with the ability to configure
17 his or her own devices.

18 And the claims specifically say that this information is sent to
19 the specified location. And so Patent Owner maintains that specified
20 location has to be given some meaning and if it can be sent to any
21 location whether it's a predetermined location, something that's just
22 programmed into the device like Walker, which says only discloses,
23 you know, just sending this to this storage facility then specified has
24 no meaning. And we think consistent with the specification and the
25 claims the specified location requires that there's some, you have to

1 actually specify where you're sending this information to. And that
2 Walker --

3 JUDGE S. MOORE: Mr. Nuttall, your position is that specified
4 means user specified, right, that the user has to be the one specifying
5 the location, is that correct?

6 MR. NUTTALL: I think that it has to be specified by the user,
7 or it has to be able to be put into the device where you're sending this
8 material, this information. And if it's not specified and it's just, the
9 information is being sent to something that's predetermined or
10 preprogrammed that's not a specified location.

11 JUDGE S. MOORE: So then something that was, so you're,
12 that's what I'm trying to understand. You're distinguishing
13 predetermined from specified. I'm trying to understand kind of that
14 temporal problem there. If there's a location that's specified in
15 advance by somebody other than the user, why isn't that a specified
16 location?

17 MR. NUTTALL: Because I guess the issue is specified is a
18 verb in our view and like we understand that the Petitioner disagrees
19 with that, but it has to, there has to be some action, specified requires
20 that that the location be specified by someone and Walker admittedly
21 doesn't do that. The user does not specify that location. And --

22 JUDGE S. MOORE: So it's, yes, I'm reading that as, I'm
23 reading that as a past tense adjective, it describes, it modifies, the
24 location. The past tense adjective that modifies the noun location.

1 MR. NUTTALL: Our view is that if you don't give specified
2 some meaning we're essentially reading that term out of the claim,
3 which, you know, our view is that you have to, it says specified means
4 that somebody has to specify the location where this information is
5 going and something that's preprogrammed is not specified by the user
6 or by the person of the device. And therefore it would be any
7 location.

8 You could have just said, and the information is sent to a
9 location or sent anywhere. But that's not what's in the claims. So our
10 view is that to give that term meaning specified means that the user
11 determines where it is sent which is consistent with the patent
12 disclosing that user configures his or her device and can do it either
13 through messaging, through other mobile phones which would
14 obviously be another user or the other potential people you could send
15 it to.

16 JUDGE A. MOORE: Counsel?

17 MR. NUTTALL: Yes.

18 JUDGE A. MOORE: This Judge Moore, do we need to
19 construe specified location to resolve this?

20 MR. NUTTALL: I think, I think the answer is to the extent
21 there's a dispute about that term, yes. You know, we propose a plain
22 and ordinary meaning but I think there's a dispute about what the plain
23 and ordinary meaning of the specified location is and so we would
24 maintain that that needs to be construed.

25 JUDGE A. MOORE: Okay.

1 MR. NUTTALL: And just to close on this I don't think there's
2 any dispute that what Walker discloses is only sending to the data
3 storage facility, that there's no ability to change where this
4 information is sent to. But the way I understand the issue it might be
5 more of a claim construction issue or a dispute about what specified
6 location means.

7 JUDGE A. MOORE: Is it also true of owner identification
8 information? Do we need to, is there a claim construction issue there
9 we need to resolve?

10 MR. NUTTALL: I don't know. I think that's, I think the
11 answer is yes. Based on the questions that I've received today, Your
12 Honor, you know, our view is that under any construction that Walker
13 doesn't disclose that, but it does appear that there's maybe a difference
14 between the parties in terms of what owner identification information
15 means and the plain and ordinary meaning of that.

16 JUDGE A. MOORE: Thank you.

17 MR. NUTTALL: Okay. I'd like to talk briefly about ground 2,
18 which is claim 15. There's a lot of overlap between this and the prior
19 issues we just discussed. We also, it's also our position that Petitioner
20 has failed to meet its burden of showing that the panic button is
21 activated by a button sequence.

22 Admittedly the only thing in Petitioner's petition is an argument
23 that you can dial in from another device and try to put in some code
24 that changes the panic button or does something on the device. Our
25 position is that fails to meet their burden of showing that Walker

1 discloses a button sequence which our position is that it's, it talks
2 about a device, and you have a panic button activates by a button
3 sequence on the device. And that some remote calling in or dialing is
4 not, does not meet that limitation.

5 You know, we note that it's always Petitioner's burden to meet.
6 It's that all the elements are disclosed and that would have been
7 obvious. We don't think that they've done that here and consistent
8 with the *FanDuel v. Interactive Active Games* case, the Board can
9 resolve any, look at any of these issues and whether or not the
10 Petitioner has met its burden.

11 So with that I will move, I won't repeat the other arguments
12 regarding claim 15. I'd like to talk briefly about Zellner and specified
13 location. You know, Zellner just real briefly, you know, this is, I
14 always think of this as what my grandmother had. You know it's a
15 device that elderly or somebody else could wear around their neck.
16 They fall, or they, you know, they can't get up. There's a button they
17 could push, and it connects them with an emergency facility.

18 And again Zellner makes it clear that this is going only to an
19 emergency facility. This is what's disclosed in Zellner. Again maybe
20 we don't need to repeat a lot of these arguments. I think it's a lot of
21 the same issue in terms of what does the specified location mean. But
22 again I don't think there's any dispute that Zellner sends it to
23 emergency service center and that's what it discloses.

24 Petitioner does make some arguments that, you know, Zellner
25 says you could put in the name of a person at the emergency service

1 center or some other information that that changes this issue, but our
2 position is the patent is clear. It's going to the emergency service
3 center. The fact that you can put in some additional information about
4 that doesn't change that there's not a specified location disclosed in
5 Zellner.

6 So the last thing we'll note is we think Petitioner has also failed
7 to meet its burden to show that audio data is sent to a specified
8 location when the panic button is activated. This is in our preliminary
9 response, pages 13 to 14, and relates to the other grounds that we've
10 raised as well in terms of when the panic button is activated. Zellner
11 does not disclose that there's a camera or some other device that takes
12 audio and sends that audio to a specified location when the panic
13 button is hit.

14 Zellner discloses that you can prerecord information about
15 yourself, or you can call an emergency service center but there's
16 nothing about an audio data file being sent with the panic button is
17 activated and the citations in the petition at pages 37 or 39 do not
18 disclose any data file being sent when the panic button is activated.

19 And the last ground, ground 4 relates to Martin. Again this is a
20 fixed recipient that talks about this PSAP. Again same issue that
21 we've talked about with the other two references. The one thing I will
22 note on this is Petitioner argues that the party can be either this PSAP,
23 law enforcement, or other parties. But Petitioner is relying on a
24 different embodiment when it's talking about figure 6 and 7, and that
25 is when law enforcement is using a device to track somebody or do

1 something and then when the law enforcement is using it they can
2 send it to this law enforcement operation facility.

3 But it's a different embodiment and there's no disclosure that
4 the figures and embodiment that Petitioner's relying on disclose that
5 you can change that embodiment to then send it to a police facility.
6 They are two totally separate embodiments, and I think they're trying
7 to mix and match in a way that is not consistent with what Martin
8 discloses.

9 And then the last issue that we want to talk about is sending
10 emergency information when the panic button is activated. And let
11 me go back to the claims here for a minute. If we look at claim 13,
12 which is on slide 25 of Patent Owner's slides and I do think this is an
13 issue that's been teed up from the very beginning in terms of what do
14 the claims require. Do, does the plain and ordinary meaning of these
15 claims require that something happen when the panic button is
16 activated, and Patent Owner maintains that it does.

17 Claim 13 for example says, you have a panic button which
18 when activated performs these functions. It activates the camera,
19 location, transmitting unit to send the emergency information to the
20 specified location and wherein the panic button is activated. So you
21 activate the panic button and a panic button, which when activated
22 performs these functions. And so you have to take audio and video
23 information, data, location, and you transmit that to the specified
24 location, or specific location. And so our view is that the claims, the
25 plain and ordinary meaning of the claims requires that when the panic

1 button is activated you have to take this data, and you have to send
2 that data to whoever you specified.

3 And we think it's clear that Martin does not disclose doing that
4 when the panic button is activated. Martin teaches you have
5 keystroke sequence, it's basically some way to dial 911. You receive
6 that, you generate some location information, and you send that
7 location information. This is there, this is Martin's flowchart.

8 So you have to take location information, and you send that.
9 After that you generate subsequent location information. So you're
10 taking a second location reading. And then you're capturing content
11 which maybe is a picture or some other content and then later
12 transmitting that content to the called party.

13 I don't think there can be any reasonable dispute that you can
14 take multiple location data points and send those separately and then
15 later take other information and send that. But that all happens at the
16 same time. Or it all happens when you activate the panic button. So
17 our --

18 JUDGE S. MOORE: Is there any indication, Mr. Nuttall, in the
19 prior reference to Martin, is there any indication that there's a delay
20 between those steps? Just to --

21 MR. NUTTALL: They don't say we delay when we take a
22 second location information, you know, reading. But I don't know
23 how you can take two readings at the same time, and it be a
24 subsequent location reading. Subsequent by it's very definition means
25 at a later time. I don't --

1 JUDGE S. MOORE: Even if all of these steps on this flowchart
2 are performed by a computer processor within a fraction of second do
3 you think that still wouldn't satisfy the claim location?

4 MR. NUTTALL: I think that the way this, the way that Martin
5 discloses this that you're taking subsequent location information
6 readings and doing this content, capturing content after these multiple
7 readings that it's not happening at the same time and not within
8 fraction of a second. That's what's disclosed here. There's no
9 disclosure in Martin that says this is all done at the same time.

10 JUDGE S. MOORE: Okay. It sounded, it sounded for a
11 moment like you were making a method claim type argument where
12 the steps had to be all performed in a particular order and these are
13 apparatus claims.

14 MR. NUTTALL: Absolutely. And I apologize if I made that
15 argument. I wasn't trying to.

16 JUDGE S. MOORE: I'm not sure that you did. It's just that's
17 what kind of stuck in my head there and I wanted to give you a chance
18 to clarify to that.

19 MR. NUTTALL: Absolutely and I'll be super brief. I mean
20 this, you know, or slide 36, our argument is that when you activate the
21 panic button these things happen, and this information is sent. And
22 we think from Martin that those all don't all happen when the panic
23 button is hit and it's not sent, that there's multiple readings, there's
24 different steps that are taken and therefore doesn't disclose this claim
25 element.

1 JUDGE JURGOVAN: Counsel, to follow up on that, I think
2 that Martin talks about all this happening in a session. And can you
3 address like how a session applies? You know, all of these steps are
4 performed in one session why wouldn't that be transmitting all of this
5 data at the same time within the meaning of the claim?

6 MR. NUTTALL: Yes. I guess by, I guess it depends I mean
7 what session means. That they disclose in Figure 3 is different steps
8 and that you're taking multiple location information readings,
9 subsequent readings, and then subsequent to that you're capturing
10 content and doing those kinds of things, which Patent Owner
11 maintains that those are, those are different steps and that those are
12 not all done when the panic button is activated.

13 JUDGE JURGOVAN: Thank you.

14 MR. NUTTALL: And I think, unless there's any other
15 questions we'll reserve our time for rebuttal.

16 MR. REIDY: Yes, thank you, Your Honors. I've got a few
17 points I'd like to make in rebuttal. Again, Patrick Reidy, Petitioner's
18 here.

19 JUDGE JURGOVAN: Thank you. Please proceed.

20 MR. REIDY: On the first dispute related to whether Walker
21 discloses owner identification information, discloses transmitting
22 owner identification information, there was some discussion about
23 what constitutes owner identification information and I understand
24 Patent Owner's counsel to have admitted that owner identification
25 information could be for example a telephone number but at the same

1 time arguing that the database ID or a unique key that can be linked to
2 the device owner's identity is not owner identification information and
3 I would submit that there's, there is no difference between a phone
4 number and such a database ID. Both items of information need to be
5 linked to the device owners actually identity.

6 Patent Owner did not raise any claim construction arguments in
7 it's Patent Owner response. I will, the only other point I'll make on
8 this issue is that claim, there is, there is no support for narrowly
9 interpreting owner identification information to the examples in the
10 specification such as the user's name.

11 And I think this is reinforced by dependent claim 8, which is
12 not at issue in the 113 proceedings but it's illuminating as to the scope
13 of owner identification information. Owner identification information
14 is also recited in independent claim 1, and dependent claim 8, narrows
15 owner identification information as recited in claim 1 stating wherein
16 the owner identification information includes a name and a
17 description of the mobile device, name, and description of the owner
18 of the mobile device.

19 So again I would just submit that by the doctrine of claim
20 differentiation it would be improper to read into claim 1 the
21 requirement that owner identification information be, for example the
22 name of the user or a description of the user and by extension it would
23 be improper to read that limitation into the use of owner identification
24 information the other independent claims.

1 Patent Owner also raised an argument about Walker related to
2 claim 15 and the button sequence limitation, which is brand new, not
3 raised anywhere in the papers and Petitioner's have not had any
4 opportunity to address that in the briefing. I will, but I will say that to
5 the extent the Patent Owner is arguing that claim, the button sequence
6 limitation of claim 15 is limited to a button sequence input on the
7 mobile device that is also not supported by the claim language, and
8 Petitioner's expressed we address that issue in the petition.

9 The second dispute related to the specified location limitation
10 again we'll just reiterate that Patent Owner raised no claim
11 construction arguments in its Patent Owner response. And Patent
12 Owner repeatedly stated that specified must be given weight in the
13 analysis and Petitioner's gave it weight in the analysis.

14 Petitioner's view is that specified location need only be a
15 location that is specified by the user or a system designer for example
16 and as noted in the petition to the extent some, to the extent something
17 would fall outside the scope of the specified location it would be a
18 system that broadcasts the information everywhere, to no specified
19 location in particular. And that is not what any of our primary
20 references, Walker, Zellner, or Martin disclosed.

21 JUDGE S. MOORE: Mr. Reidy, though you faulted Patent
22 Owner for not giving his claim construction arguments in the
23 response, you know, you didn't give us any claim construction
24 arguments either in your reply or otherwise, did you?

1 MR. REIDY: Your Honor, we're responding in our petition, I
2 think we're very clear about how we were interpreting or mapping the
3 claim limitations to the prior art and in the Petitioner reply. We're
4 responding to the evidence that the Patent Owner made itself and to
5 the extent there's some dispute about well, you know, let's go through
6 the cannon's of claim construction and narrow the scope of these
7 claim terms. Patent Owner was free to do that.

8 Patent Owner could have also submitted a motion to amend.
9 But they chose not to do so and so when the Petitioner replied, we,
10 you know, at that point there was nothing, there was no claim
11 construction issue for us to respond to or to formally propose a
12 construction.

13 JUDGE S. MOORE: Okay. I'll just mention from, you know,
14 from my perspective having read the briefs, it looks like both parties
15 addressed claim construction, they just didn't do it under a claim
16 construction heading. They did in the discussion of the individual
17 claim limitations.

18 MR. REIDY: I understand, Your Honor. I think, I think that
19 Petitioner's were clear in the petition about how we were mapping the
20 claims to the art, and I think we took a plain meaning approach to that
21 that didn't require broadening any claim limitations or narrowing any
22 claim limitations in any specific way. So --

23 JUDGE S. MOORE: Yes, I just wanted to, I just wanted to
24 mention, you seemed to be faulting Patent Owner for doing something
25 that you didn't do when, you know --

1 MR. REIDY: I understood.

2 JUDGE S. MOORE: It appeared to me that both parties
3 addressed claim construction, it's just you did so in a roundabout way.

4 MR. REIDY: Understood, Your Honor. Thank you. All right.
5 Patent Owner also raise a new argument related to Zellner and the
6 audio data file and candidly, Your Honor, I was trying to take notes
7 because again this is not something that was raised in the Patent
8 Owner response. I recall the Patent Owner said something about
9 while this was this argument or this issue was raised in our
10 preliminary response, I'm not sure what the issue was but again just
11 flagging brand-new argument, wholly omitted from the Patent Owner
12 response.

13 With respect to Martin, counsel for Patent Owner also raised
14 some new arguments about how Petitioners were allegedly mixing
15 and matching embodiments within Martin, that's brand new. I don't, I
16 don't know that Patent Owner is referring to. So we haven't briefed
17 that issue or had an opportunity to respond to that issue.

18 And finally, just to address Patent Owner's argument with
19 respect to Martin and whether it discloses transmitting the various
20 items of information when the panic button is activated. I just want to
21 reiterate that there is no evidence in the record on Patent Owner side
22 on this issue. It is pure attorney argument and the only evidence that
23 is in the record is on Petitioner's side that by Martin's disclosure of
24 transmitting this information during the communication session and

1 immediately after Martin's keystroke sequence is input discloses
2 transmitting all of this information when the panic button is activated.

3 So with that, Your Honor, I don't have any further arguments to
4 make. Thank you very much.

5 MR. NUTTALL: Your Honor, Jay Nuttall for Patent Owner. I
6 will be very brief. A couple of quick points. I do want to clarify my
7 point earlier regarding owner identification information, I tried to
8 make it clear, but I probably was not, so I want to clarify now. My
9 point was that the claim should be construed consistent with the
10 specification, specification in column 3, lines 10 to 12 talks about
11 owner identification information being the name and description of
12 the owner of the self defense device. And so that's our proposal for
13 that and it should be consistent with the claims and the specification.

14 For the button sequence in claim 15, again it's Petitioner's
15 burden and if we look at their petition which they have to include all
16 of their evidence in their petition and it's clear that it's not. They
17 admit that it's not anything on the device and we don't think that meets
18 the claims.

19 With regard to Martin, a couple of quick points. The bottom of
20 column, let me make sure I get it right, so I'm not sending to the
21 wrong spot. At the bottom of column 6, line 66 through the first
22 couple of paragraphs of column 7, it's talking about figure 6 and 7,
23 where a law enforcement agent can use the wireless device during an
24 uncover operation. And those are two totally different embodiments
25 and that does not disclose that the first embodiment that he, it's talking

1 about when a law enforcement agent is undercover, if he's using the
2 device it's going to go to a law enforcement agency. So that's the
3 disclosure there that we're referring to and wanted to make that clear.

4 I think Petitioner made some arguments that with regard to the
5 at the same time was not in our briefs we respectfully disagree. It is
6 in our Patent Owner response, it's in our sur-reply. We made
7 arguments that Martin does not disclose that at the time the panic
8 button is activated. So unless there's any further follow up questions,
9 I don't have anything further on the 113 IPR.

10 MR. REIDY: Nothing further from me, Your Honor, on the
11 113.

12 JUDGE JURGOVAN: Okay. Thank you. It doesn't appear
13 there are any further questions, I think we can move on for the 114
14 now starting with Petitioner again.

15 MR. SHARIFAHMADIAN: My apologies. I was on mute.
16 Can everybody see my slides?

17 JUDGE JURGOVAN: We can.

18 MR. SHARIFAHMADIAN: All right. May it please the
19 Board, I am Ali Sharifahmadian of Arnold & Porter on behalf of the
20 Petitioners, and I'll be addressing the 114 proceeding today. There is
21 one ground in this proceeding and that is that claims 1 through 8 are
22 obvious over the combination of the DiPerna 964 in view of Strack.

23 This whole disputed issue however between the parties is
24 whether claims 1 through 8 are not entitled to priority before January
25 30, 2019. And that is the date that the application that issued as the

1 404 patent at issue was filed. The Board set out the various burdens
2 in its institution decision here. Of course Petitioners have the burden
3 of proving unpatentability by the preponderance of the evidence and
4 we always have that burden and have to carry it. However, where
5 there is a break in the chain of priority issue and there is dispute as
6 there is here, as the Board noted, Petitioner bears the initial burden to
7 show that it references prior art for example by showing that the
8 challenged patent's priority chain does not provide written description
9 for it under section 112. But once we meet that initial burden the
10 burden of production then shifts to Patent Owner to show that the
11 reference is not prior art such as by proving entitlement to an earlier
12 priority date.

13 So the key point here is that it's actually the Patent Owner that
14 has the burden of proving that it is entitled to the earlier prior date.
15 And if they're not able to carry that burden of proof that I would
16 submit that there is really no dispute here that Petitioners have
17 otherwise carried their burden by showing by a preponderance of the
18 evidence that the claims are obvious in view of the two references that
19 I mentioned earlier.

20 And just to be clear for the record this, the portion of the
21 institution decision I was referring is on slide 69 of our presentation.

22 JUDGE S. MOORE: I'll just point out that they had a quotation
23 in *Dynamic Drinkware*, it talks about a burden of production, not a
24 burden of proof when it is talking about Patent Owner. And that what

1 ultimately we do is weigh the evidence afford by both sides and find
2 who's made a stronger showing.

3 MR. SHARIFAHMADIAN: Yes, sir, Your Honor.

4 JUDGE S. MOORE: If I misunderstood that, please let me
5 know but that's my understanding of what the case is saying.

6 MR. SHARIFAHMADIAN: I understand, Your Honor. I was
7 merely quoting what the Board here stated, but obviously *Dynamic*
8 *Drinkware* is the controlling authority.

9 JUDGE S. MOORE: Understood, thank you.

10 MR. SHARIFAHMADIAN: So what is at issue here, the
11 pertinent language of claim 1 is shown here on slide 71, and to be
12 more, to be more precise, during prosecution applicant amended then
13 application claim 7, which issued as claim 1 to state that a panic
14 button adapted to when activated ready itself to perform one of the
15 following panic button functions and then there are two functions
16 recited there.

17 So the key issue is this, ready itself to, language that was added
18 by amendment and with reference to slide 72 at the time that they
19 made this amendment applicant did not explain or provide any
20 specification support for their ready itself amendment. And that's
21 surprising because there really isn't any.

22 As we set out in our petition and here I'm referring to slide 73,
23 at best the 353 application describes an embodiment in which the
24 mobile device includes a separate safety switch, which upon being
25 moved into position readies the panic button to contact 911 upon

1 being pressed. So there is disclosure of a separate button that can be
2 pressed to ready the panic button to be activated but there's no
3 disclosure of the panic button being activated to then only ready itself
4 to do something.

5 And let me just be clear here because I had mentioned the 353
6 application. So the reason I'm referring to that is because that is the
7 earlier application from which the 404 patent claims priority. And if
8 there is no written description support the parties agree. If there's no
9 written description support for the claim in the 353 application then
10 there's really no written description support anywhere in the chain of
11 priority of the 404 patent prior to January 30, 2019.

12 The Board recognized in its institution decision and here I'm
13 referring to slide 75, that moving a safety switch into position to ready
14 the panic button is not the same as the panic button readying itself to
15 perform the function. So in their response, the Patent Owner
16 response, Patent Owner effectively makes two arguments.

17 The first is that they accuse us of incorrectly arguing that the
18 353 application does not disclose to ready a panic button. That's
19 referred here in slide 76. But of course that is not what we argued.
20 Going to slide 77, we didn't argue that there's no disclosure of
21 readying the panic button. We argued that there's no disclosure of the
22 panic button, activating the panic button called readying itself to then
23 perform the recited functions.

24 And really in their reply, in their sur-reply the Patent Owner
25 effectively has no response to this. They say, oh well, we just meant

1 this one embodiment that's in there, but they don't really continue to
2 argue that provides written description support for the claim.

3 The second argument that Patent Owner raises is reflected there
4 on slide 78. And what they say is, well wait, there's another
5 embodiment in the 404, or the 353 application, if you will where the
6 button can start the speech recognition process to trigger the device
7 and then in this case the button readies the device to dial 911 by
8 initiating the speech recognition process, which would then further
9 trigger the dialing of 911 upon recognition of the correct voice
10 prompt.

11 There are at least three problems with this argument and why
12 it's not sufficient to provide written description support for the, for the
13 claim as, or for the full scope of the claim. And before I discuss them
14 it's worth just reiterating the standard which is to satisfy the written
15 description requirement one skilled in the art reading the original
16 disclosure must immediately discern the limitation at issue in the
17 claim. That's noted, that's from *Purdue Pharma* as noted in slide 79.

18 So just going back to slide 78 here. I want to, I want to take the
19 three deficiencies in turn. Again as noted here the Patent Owner
20 argues the button can start the speech recognition process to trigger
21 the device and they point to Exhibit 1006, which is the 353
22 application or portions of it at page 25, which is section in the
23 specification to which they point there.

24 And read in context what that section of the specification says
25 is that the button can trigger the panic button. Excuse me, I misspoke

1 there. The button can trigger the voice recognition feature and then
2 the voice recognition feature can be used to trigger the panic button.
3 That's what the disclosure is.

4 And as the Board noted in its institution decision that's noted in
5 slide 84, what the 353 application describes is using voice activation
6 to actually activate the panic button. There is no disclosure of using
7 voice activation to ready the panic button for activation to perform
8 certain functions. So I would, we would submit that read in context
9 there is no support for what the Patent Owner is arguing there.

10 And then that's actually emphasized by the second portion of
11 what's here in slide 78, which is in this case the button readies the
12 device to dial 911. Of course that's not what the claim requires. The
13 claim requires that activating the panic button readies itself to perform
14 the recited functions. So even here I would submit that the Patent
15 Owner is recognizing that what is disclosed in the 353 application
16 even taken, you know, under the best interpretation for them is not a
17 disclosure of what actually is required by the claim.

18 And the last point I would make is that the Patent Owner
19 response or, and their submissions in this proceeding do not really
20 grapple or address the fact that the claim has two functional
21 requirements, or being ready to perform two functional requirements,
22 it's going back to slide 71 here.

23 The panic button adapted to when activated ready itself to
24 perform at least one of the following panic button functions. Dialing
25 a public or private network for emergency purposes or activating the

1 transmitting unit and all of their arguments, even taken under the best
2 light and we would submit they're not sufficient. But even taken
3 under the best light address the functionality of dialing a public or
4 private network. There is no support in the specification that
5 activating a panic button readies itself to then activate the transmitting
6 unit.

7 JUDGE JURGOVAN: Counsel, a question on that if you could
8 go back to the claim.

9 MR. SHARIFAHMADIAN: Yes, Your Honor.

10 JUDGE JURGOVAN: So you notice there between 1 and 2
11 there's an "or" but the issued claim 1 recites an "and" there. It's 1 and
12 2, in the issued claim, claim 1.

13 MR. SHARIFAHMADIAN: I believe there may have been a
14 later amendment, Your Honor, and I think the reason we have what's
15 shown as slide 71 is we wanted to show the, when the ready itself to
16 language was introduced into the prosecution.

17 JUDGE JURGOVAN: I see.

18 MR. SHARIFAHMADIAN: So I apologize for the, for that
19 point but the reason we're relying on the, we're showing what we're
20 showing in slide 71 is to show when that ready itself, the language
21 was introduced.

22 JUDGE S. MOORE: Okay. And assuming you're correct that
23 the 404 doesn't provide, or the 383 application doesn't support the
24 claim, how does Strack teach this limitation?

1 MR. SHARIFAHMADIAN: Well Strack is directed to a
2 similar emergency type mobile duress alarm application running on a
3 mobile device and what Strack says is that when you press the button
4 a time is started, and it starts recording. It starts collecting data while
5 the timer is running but there is no transmission of anything.

6 It's only after the timer is run and assuming that the user doesn't
7 extend the timer or cancel the timer that, only after that is it that the
8 information is, you know, an emergency location is dialed, and the
9 information is transmitted. So during the timer is when it's readying
10 itself to dial and activate a transmitting unit.

11 JUDGE S. MOORE: Is these, in your example, is the panic
12 button readying itself? It seems like you just shifted it a little bit
13 there. You said that it's readying the unit to do something, whereas
14 when you were discussing the Patent Owner's arguments you said the
15 panic button had to ready itself.

16 MR. SHARIFAHMADIAN: If I said that, Your Honor, I
17 apologize for speaking loosely, but it's the panic button that is
18 readying itself to do those things in Strack during the, during the timer
19 period.

20 JUDGE JURGOVAN: What in Strack disclosed that during the
21 duress timer period, the device is, or the button is, readying itself to
22 dial or activate?

23 MR. SHARIFAHMADIAN: Well, Your Honor, I think to be
24 clear our position is that it is the combination of the DiPerna964 and
25 Strack that teaches the entire limitation. It's not Strack by itself.

1 JUDGE JURGOVAN: But at the same time you state that the
2 383-application doesn't support the claim. So you can't have it both
3 ways here, can you?

4 MR. SHARIFAHMADIAN: Well, I don't believe that we are
5 trying to have it both ways, Your Honor. It's the -- Strack teaches the
6 readying itself aspect through the timer feature. During that period
7 those things, the dialing and the activating is not occurring. It's
8 DiPerna964 that says those things, that teaches doing those things. So
9 Strack teaches a period of the panic button readying itself to do those
10 things and does them once the timer runs.

11 JUDGE JURGOVAN: Understand. Thank you.

12 MR. SHARIFAHMADIAN: Unless there are further questions
13 I will reserve the remainder of my time for rebuttal.

14 JUDGE JURGOVAN: Thank you. Let's hear from Patent
15 Owner?

16 MS. MISBAH: Can everyone see my screen?

17 JUDGE JURGOVAN: Yes, we can. Thank you.

18 MS. MISBAH: Great. Good morning Your Honors. My name
19 is Sadaf Misbah, and I would be responding to Petitioner's arguments
20 on the 114 IPR on behalf of the Patent Owner.

21 Your Honor, the arguments here rest on the fact that Petitioners
22 argue that the 404 patent does not have written description support
23 and thus is not entitled to the priority date of January 2005, however
24 we argue that that is not the case and the references that Petitioners do

1 rely on which are DiPerna964 and Strack are not prior art to the 404
2 patent and thus cannot invalid the 404 patent.

3 So moving to the language at issue. As Petitioner mentioned
4 the language at issue here is a language from claim 1 specifically
5 limitation 1[d], which talks about a panic button adapted to when
6 activated, ready itself to perform the following panic button functions.

7 And the language that Petitioner takes issue with is “ready itself” and
8 they argue that the “ready itself” limitation has no written description
9 in the 353 application, and we disagree.

10 So we turn to the 353 application, Your Honor. The 353
11 application has, it discloses multiple safeguards to prevent the
12 accidental triggering of the panic button. And one of the safeguards
13 involves a voice activation feature in which the user can activate the
14 panic button, which then activates the speech recognition process, and
15 the user can have a special code word which that they then say will
16 trigger the panic button to perform the rest of the functions that are
17 listed in this claim, which are activating the transmitting unit and
18 dialing a public or private emergency network.

19 And if you look further, I mean if you look at slide 8, which
20 points to another part of 353 disclosure you see the same thing. You
21 see that panic button can also be triggered by a code word, and when
22 that code word is shouted or said the panic button then activates the
23 rest of the features and sends off image and location information.

24 JUDGE S. MOORE: Ms. Misbah, you said that the panic
25 button activates those in that sentence. That's not exactly what the

1 specification said. Correct? It says that those features have been
2 performed but it doesn't say the panic button performed those features.

3 MS. MISBAH: That's right, Your Honor. My apologies. The
4 panic button triggers.

5 JUDGE S. MOORE: And that's the issue I'm kind of wrestling
6 with. This claim limitation, it seems to require, and please correct me,
7 you know, if I'm wrong on this and misinterpreting things, but it
8 seems to require that the panic button, you know, does something to
9 prepare itself to be activated, like that is some type of double press
10 required, but it seems the panic button has to do a pre-step and then
11 the panic button perhaps when pressed together with another button
12 has to preform a subsequent function as well.

13 And I'm trying, I'm wrestling with that and trying to understand
14 first of all whether or not that's correct, and second of all whether or
15 not that lines up with either the prior art as cited by Petitioner, or with
16 your argument that this voice functionality --

17 MS. MISBAH: Exactly.

18 JUDGE S. MOORE: -- is activated by both of those.

19 MS. MISBAH: Yes, Your Honor. I do understand the issue
20 and so the way we are interpreting this and the way that we're arguing
21 this for instance again here, the idea is that you press the panic button
22 and that readies the panic button to start the speech recognition
23 process. And while the speech recognition process is ongoing the
24 user, you know, says their special code and then that triggers the
25 performance of the remainder of the, you know, the functions that are

1 listed. So then the panic button will perform the following functions.
2 So the panic button is pressed, it's ready, it's listening for the code
3 word, it hears the code word and then it performs the following
4 functions, which are dialing a public service or activating the
5 transmitting unit and sending data to the emergency services.

6 JUDGE S. MOORE: In your --

7 JUDGE JURGOVAN: Does the client setting --

8 JUDGE S. MOORE: -- scenario those functions, in your
9 scenario those functions weren't performed by the panic button.
10 They're performed automatically in response to the receipt of the code
11 word by the speech recognition software.

12 MS. MISBAH: I'm sorry, Your Honor, could you repeat that?

13 JUDGE S. MOORE: It sounded like in your scenario those
14 functions weren't performed by the panic button, those subsequent
15 functions. They were instead performed by software that recognized a
16 code word in the speech.

17 MS. MISBAH: Well, Your Honor, it does, I mean the 353
18 application says that the button starts the speech recognition process.
19 And then when the button hears the special code word the button then
20 performs the following functions rather than the speech recognition
21 process doing that.

22 JUDGE S. MOORE: Is it the button that hears the speech? I
23 know it seems like, it seems like semantics but when you read the
24 claim that seems to be what it requires at least at first glance and I'm
25 really wrestling with what this claims.

1 MS. MISBAH: Yes, Your Honor. I mean the button readies
2 itself to perform the following functions and --

3 JUDGE S. MOORE: Right. It doesn't say the button readies
4 the phone. It says the button readies itself and that's what, that's what
5 I'm wrestling with.

6 MS. MISBAH: And, Your Honor, like we're interpreting the
7 ready itself is that it's readying itself to perform the functions by
8 listening for the special code word and once it hears it it then performs
9 the functions.

10 JUDGE S. MOORE: So you're interpreting this to me that, you
11 know, the button I guess readies the phone to perform these functions
12 that that would satisfy this limitation even if, I guess there's no
13 subsequent pressing of the panic button required. Did I say that
14 clearly enough?

15 MS. MISBAH: Yes.

16 JUDGE S. MOORE: I like the issue on that.

17 MS. MISBAH: Right. I think that the button does ready itself
18 rather than just readying the device. I think the button is readying
19 itself to hear and obviously the button is not actual, you know, the part
20 of the device but that's hearing the code word. But the button is part
21 of the device and, you know, uses the functionalities of the device
22 and, you know, in conjunction with that, the button then performs the
23 functions that it's intended to.

24 JUDGE S. MOORE: Okay. Thank you. I think I understand
25 your argument and I think as I mentioned before this same question

1 bears on both sides' argument so in the, you know, in the reply I'd
2 appreciate it if Petitioner would also address what this limitation
3 means and that question I just attempted to ask.

4 MS. MISBAH: And with that, Your Honor, because the 353
5 application does provide written description support for the ready
6 itself limitation we, both side references that are relied on by the
7 Petitioner do not fall under the priority, are not prior art to the 404
8 patent and so cannot invalidate it and unless there are any further
9 questions?

10 JUDGE JURGOVAN: Counsel, I'd like you to walk through
11 the claim with me and explain what's going on, what is the, what is the
12 panic button doing here?

13 MS. MISBAH: Sure. And would you just like me to walk
14 through limitations --

15 JUDGE JURGOVAN: Yes. Because starting, a panic button
16 adapted to when activated ready itself to perform the following
17 functions. What is the panic button doing there specifically?

18 MS. MISBAH: Right. So the panic button in this instance, so
19 when activated so in this instance I'm imaging -- and again I think we
20 have to read this in the context of the 404 patent being a self-defense
21 device. And the 404 patent also wanting to safeguard against
22 accidental triggering or somebody pressing the button then, you know,
23 unnecessarily using public services. And so --

24 JUDGE JURGOVAN: Right.

1 MS. MISBAH: So the panic button, you press it and so this
2 doesn't, you know, activate it to immediately call 911. It just readies
3 itself and it starts --

4 JUDGE JURGOVAN: What does it do? Now to ready itself
5 what does it do?

6 MS. MISBAH: It's starting the speech recognition process and
7 it's listening to any --

8 JUDGE JURGOVAN: But the claim doesn't say anything
9 about speech recognition though.

10 MS. MISBAH: Yes. Your Honor, the claim doesn't
11 specifically say it, but the claim does say ready itself and the issue --

12 JUDGE JURGOVAN: Okay.

13 MS. MISBAH: -- is trying to give meaning to those words and
14 we think, and it's argument that the meaning here is it's ready itself to
15 listen for any specific code word that the user has already set. And so
16 you press the button, it's activated, it has readied itself to start the
17 speech, and it's doing the speech recognition process, and it hears the
18 code word and then it performs the following functions, which are
19 dialing public service and activating the transmitting unit.

20 JUDGE JURGOVAN: But if it is the, that's not, the claim says
21 that it's the depressing of another button that starts the process, not the
22 hearing of the code word.

23 MS. MISBAH: Yes, Your Honor, it does that the panic button
24 is activated by depressing the panic button together with another
25 button that can also just be for the initial step. So you activate the

1 panic button, you press both buttons and that activates the panic
2 button to start the speech recognition process and thus readies the
3 panic button to perform the additional functions when it hears the
4 code word.

5 JUDGE S. MOORE: So your argument is those final two claim
6 limitations can just be the same thing, that they're, that a single press
7 can both ready the panic button and activate the panic button in the
8 manner required by claim 1?

9 MS. MISBAH: Your Honor, the language says the panic
10 button when activated readies itself. So the idea is that the activation,
11 so it says, claim 1[e] says is activated by a depressing of the panic
12 button. So it's activated by, is what's activating. Right? And so claim
13 limitation 1[d] is post-activation. So you press both the buttons,
14 you've activated the panic button and now it has started the speech
15 recognition process.

16 JUDGE JURGOVAN: Okay. Can you give me the sequence?
17 Now what's happening? So you press the panic button, the device
18 hears the code word and that means -- how does it work? Explain to
19 me those last two, those last two limitations?

20 MS. MISBAH: The panic button hears the code word, it's
21 activated, it's listening for the code word, hears the code word and
22 then it, if you look at some disclosure it says, it --

23 JUDGE JURGOVAN: Now let's look at the claim. Let's not
24 worry about the disclosure right now. Let's worry about the claim. It
25 said, so here's the code word. Now when does the second depressing?

1 MS. MISBAH: The second depressing is in order to activate
2 the panic button. So it, the second depressing happens in conjunction
3 with pressing the panic button. So the panic button is activated. So in
4 this instance you're walking down the street, you see somebody, you
5 know, following you, you activate the panic button, you press the
6 panic button as well as another button and that activates the panic
7 button.

8 And then the panic button is activated, it readies itself by
9 starting the speech recognition process to hear any code word that the
10 user has preset. The user says the code word and then the panic
11 button will perform the following panic button functions which would
12 be dialing the public or private network and activating the transmitting
13 unit.

14 JUDGE S. MOORE: So then you're, I think, I think what
15 you're saying is there doesn't have to be two presses of the panic
16 button. What you're saying is everything required in these final two
17 claim limitations is performed when the panic button is depressed
18 together with another button at substantially at the same initial time?

19 MS. MISBAH: That's right. And that activation readies panic
20 button to perform its functions.

21 JUDGE S. MOORE: And activates the panic button. Okay.
22 Thank you.

23 MS. MISBAH: All right. I reserve the remaining of my time
24 for rebuttal. Thank you very much.

25 JUDGE JURGOVAN: Thank you. Go back to Petitioner or --

1 MR. SHARIFAHMADIAN: Thank you, Your Honors. I'm
2 just trying to get my screen back up here again.

3 JUDGE S. MOORE: And I'm sure you're going to address it,
4 but I would like you to address the argument that Patent Owner just
5 made --

6 MR. SHARIFAHMADIAN: I will try my best.

7 JUDGE S. MOORE: -- that whether or not --

8 MR. SHARIFAHMADIAN: I will try my --

9 JUDGE S. MOORE: Whether or not that single pressing of the
10 panic button together with another panic button could perform all of
11 the things in last two limitations whether that would be consistent
12 with claim?

13 MR. SHARIFAHMADIAN: I will try my best, Your Honor.
14 And if I, if I don't do an adequate job please let me know and I will try
15 again. But I'd like to start by just addressing the question I was asked
16 earlier about, you know, how does the combination of DiPerna and
17 Strack meet this claim.

18 And I think obviously our arguments are set out in the petition,
19 but I think, it's summarized well on page 17 of our petition in the
20 DiPerna-Strack combination disclosures suggests a mobile device
21 with a panic button that when activated arms itself to start recording
22 the image, audio, and location data and that upon expiration of a timer
23 triggers the device to dial 911 and transmit the image, audio, and
24 location data to a specified location along with the specific
25 information.

1 And a POSITA would have understood that they're arming, and
2 timer teachings encompass readying the panic button to perform the
3 functions of dialing 911 and transmitting data because during the time
4 the device is getting ready to perform those functions by recording the
5 image, audio, and location data that is transmitted upon expiration of
6 the timer.

7 So I think that is a good summary of what our position is in
8 terms of how the combination of DiPerna and Strack teach this
9 limitation.

10 JUDGE S. MOORE: That sounds a lot like Patent Owner's
11 counsel was describing from the specification of the 404 patent.

12 MR. SHARIFAHMADIAN: I don't believe it is, Your Honor.
13 And I'll try to explain why, and I'll stop sharing my screen there.
14 Actually maybe I will bring back up the presentation just so it is
15 available, the claim language is available. One second please. So if I
16 go back to slide 71 of Petitioner's presentation and understanding that
17 the issued claim says and/or, but to the issue of what's in that last
18 wherein clause, wherein the panic button is activated by by depressing
19 of the panic button together with another button at substantially the
20 same initial time. There is disclosure of activating the panic button in
21 that where it's basically you depress two buttons together.

22 The specification does describe that for sure. But that is again
23 activating the panic button. What is not in the specification is that that
24 activation only causes the panic button to ready itself to perform these
25 functions. What's in the specification is that during those button

1 sequences actually activation, the panic button to perform those
2 actions at the time that the activation occurs, not merely a readying
3 itself to do those functions at some later time. To the extent that I
4 understood Patent Owner's counsel's arguments I think she set out a
5 sequence where you activate the panic button, that's starts the voice
6 recognition and then the voice recognition then activates the panic
7 button in order to perform these functions. And I would respectfully
8 submit, Your Honors, that that is not what the claim is reciting. Under
9 --

10 JUDGE S. MOORE: I believe, just before you go on, the way I
11 understood argument, Patent Owner's argument was let's say that by,
12 if you're starting with this last claim limitation and then moving to one
13 previously, I believe what she was saying is that the panic button is
14 activated by depressing the panic button together with another button
15 at substantially the same time, so that that would satisfy the final
16 claim limitation and then after that the panic button has been activated
17 so it now readies itself to perform the following functions and that
18 that's done by triggering the voice software. So that double press
19 satisfies both of those claim limitations. I believe that's what Patent
20 Owner was saying.

21 MR. SHARIFAHMADIAN: And I think what that, the point
22 I'm trying to make is that what Patent Owner was further saying is that
23 it's not actually, what is then causing the functions to actually be
24 performed is a second or subsequent activation through the voice
25 command.

1 So it's not, the patent, it's not the panic button that readied itself
2 to actually perform these things. It's the voice activation or the voice
3 command that activated the panic button to do those things. So it was
4 a subsequent activation that caused those things to happen, not the
5 panic button readying itself to do those things.

6 JUDGE S. MOORE: The claim limitation, but the claim
7 doesn't actually require that an emergency number be called without
8 anything being transmitted does it? It just requires that the system
9 ready itself to do those things.

10 MR. SHARIFAHMADIAN: Well, no, it requires that the panic
11 button ready itself to do those things.

12 JUDGE S. MOORE: Yes.

13 MR. SHARIFAHMADIAN: The system ready itself to do
14 those things. And --

15 JUDGE S. MOORE: Understood. And that's obviously a
16 limitation we're wrestling with, what does it mean for the button to
17 ready itself?

18 MR. SHARIFAHMADIAN: Understood. And what the point
19 I'm trying to make as best as possible is that what the Patent Owner is
20 describing is a situation where it is a subsequent voice command that
21 is activating the panic button to do those things, the panic button itself
22 didn't ready itself to do those things.

23 And I would submit, Your Honor, you noted at the beginning
24 that it's, you know, you look at various arguments and see who has the
25 best of the arguments and I would submit that here what the Patent

1 Owner is asking the Board to do is take sentence fragments from the
2 specification, take this half a phrase from here and then combine it
3 with half a phrase from a completely different sentence later in the
4 paragraph or later in the specification and if you, you know, combine
5 those things together and skew your head this way then there is
6 support for this but for this written description for support for this
7 claim limitation.

8 And respectfully I don't think that meets what the standard is
9 here, which is that the claim limitation must immediately be
10 discernible from the specification. So for that reason I don't believe
11 that there is written description support here and while we have spent
12 some time discussing how DiPerna and Strack combination meet the
13 limitations, and I believe we have met our burden of showing that by
14 the preponderance of the evidence. I think it's also noteworthy that
15 the Patent Owner here has not raised any disputes as to how that
16 combination meets this claim limitation if they're not entitled to it.

17 JUDGE S. MOORE: And there's, well there's a bit of a tension
18 there, right? I understand that the standard for written description
19 disclosure is different than the standard for, you know, the disclosure
20 necessary to find obviousness. But there certainly is a bit of a tension
21 there in arguing there's no disclosure in the specification of a panic
22 button that readies itself at the same time saying, you know, citing
23 prior art, for obviousness, obviously a different standard.

24 But it also doesn't talk about a panic button explicitly ready,
25 explicitly readying itself. It just talks about a timer. I'm not sure if

1 there's anything else you can say on that, and obviously the legal
2 standards are different but there is some tension.

3 MR. SHARIFAHMADIAN: I will, I will not disagree that
4 there is some tension there, but I think the tension is resolvable as you
5 note because the different standards that are at play here resolvable in
6 our favor though, obviously.

7 JUDGE S. MOORE: Of course I understand that position. Of
8 course. It's a bit of a conundrum for us and, you know, but I'll just
9 stop there.

10 MR. SHARIFAHMADIAN: Unless there are further questions,
11 Your Honors, that's all I have.

12 JUDGE JURGOVAN: Okay. Thank you very much. We'll
13 hear, is there sur-rebuttal from Patent Owner?

14 MS. MISBAH: We have no surrebuttal, Your Honor. We rest
15 on the arguments that we made.

16 JUDGE JURGOVAN: Okay. I'd like to thank all parties for
17 their presentations. They're helpful to us for understanding issues in
18 the case. The judges are going to leave the hearing but please remain
19 on the line so that if the court reporter has any questions to ask, you
20 can do that.

21 JUDGE S. MOORE: Yes, Your Honor, then there's that one
22 question we wanted to --

23 JUDGE JURGOVAN: Oh yes, thank you.

24 JUDGE S. MOORE: bring up.

1 JUDGE JURGOVAN: The one question we wanted to ask is
2 whether the parties would like to brief claim construction, for example
3 of owner identification information and the specified location and
4 possibly the ready itself limitation. Do the parties want to do that or
5 do the parties want to rest on the briefs as the case is.

6 MR. SHARIFAHMADIAN: For Petitioners, Your Honor,
7 we're happy to rest on the briefs as the case is but we're obviously
8 happy to brief it as well as the Board would find that helpful too.

9 JUDGE JURGOVAN: Patent Owner?

10 MR. NUTTALL: I think Patent Owner would be happy to brief
11 it, Your Honor, if that would be helpful to the Board.

12 JUDGE JURGOVAN: Okay. Why don't we go forward then
13 with a briefing due in seven days on owner identification information,
14 the specified location and the ready itself limitation, and we'll send out
15 an order saying to that effect. But due in seven days given the
16 timeline that we're dealing with for this case and getting the final
17 written decision out.

18 MR. NUTTALL: Yes, Your Honor. Your Honor, my only
19 follow-up question would be should we also submit a new briefing on
20 the timing issue? There's the when the panic button is activated in the
21 113 IPR. I think there's some disputes about, you know, what that
22 means. Maybe you don't need claim construction briefing on that. I
23 just, we're happy to brief just those other issues if that's all the Board
24 wants.

1 JUDGE JURGOVAN: Why don't we do two pages of briefing
2 and you can address those four issues then, is that clear to both sides?

3 MR. SHARIFAHMADIAN: I'm sorry, Your Honor, all four
4 issues briefed in two pages?

5 JUDGE JURGOVAN: How many pages do you think it would
6 require?

7 MR. SHARIFAHMADIAN: I'll have to give that some
8 thought, Your Honor, but I think it's not, is it two pages per issue or
9 two pages complete for all four issues?

10 JUDGE JURGOVAN: Complete.

11 MR. SHARIFAHMADIAN: I would, I would defer to
12 whatever the Board would like, Your Honor.

13 JUDGE JURGOVAN: Patent Owner?

14 MR. NUTTALL: Your Honor, if we could have five pages that
15 would be great. If less than that is desired we could do it in three or
16 four.

17 JUDGE JURGOVAN: Let's do it in three. All right. I'm sorry,
18 let's do it in five pages a side. And Patent Owner, if you could be
19 clear about the timing issue that you're referring to.

20 MR. NUTTALL: Sure, Your Honor. There's several disputes
21 about the activating, when the panic button is activated what data is
22 sent for example with Martin there's a dispute about when things are
23 sent. I think there's other references that we have dispute too that
24 certain data might not be sent or taken at the time the panic button is
25 activated.

1 JUDGE JURGOVAN: Right. So are you talking, for example
2 in claim 9, column 9, lines 19 through 22?

3 MR. NUTTALL: I think it's both claim 9 and claim 13 and
4 claim 15 also.

5 JUDGE JURGOVAN: Okay. Both sides are clear on what the
6 construction issue is?

7 MR. SHARIFAHMADIAN: I'm not sure I am clear on the last,
8 the fourth issue, Your Honor. I understand the owner identification
9 information, the specified location, and ready itself. But this last point
10 I'm not quite sure what the issue is that we're to be briefing.

11 JUDGE JURGOVAN: I think the Patent Owner is saying that
12 for example in claim 9, the limitation it talks about the panic button.
13 It says there that the, you send the emergency information and the
14 specific information to a specified location when the panic button is
15 activated. I believe the Patent Owner is arguing that those, the
16 emergency information, and the specific information are sent
17 simultaneously or --

18 MR. NUTTALL: That's correct, Your Honor.

19 JUDGE JURGOVAN: -- contemporaneously.

20 MR. NUTTALL: I'll also, I'll also note that this was addressed
21 in the initial determination on page 45. The Board made a
22 determination that there was no language requiring that certain data be
23 sent at the same time. We think that that is a potential claim
24 construction issue that we would like to brief, Your Honor.

1 JUDGE JURGOVAN: Okay. So Petitioner, are you clear on
2 what needs to be briefed with respect to that limitation?

3 MR. SHARIFAHMADIAN: I believe, so, Your Honor. Can I
4 just confirm that there is no new evidence permitted briefing, no new
5 --

6 JUDGE JURGOVAN: There's no new evidence permitted, no.
7 It would just be strictly on what is already in the record.

8 MR. SHARIFAHMADIAN: Okay. And this is a simultaneous
9 submission by both parties?

10 JUDGE JURGOVAN: Right and due in seven days, so let's
11 take a look at the calendar. So due the 26th. Okay. If there's no
12 further issues then we'll issue an order to that effect soon. And then
13 please do stay on the line in case the court reporter has questions to
14 ask you. Again thank you very much for your presentations today.

15 JUDGE S. MOORE: Thank you everyone.

16 MR. SHARIFAHMADIAN: Thank Your Honor.

17 (Whereupon, the above entitled matter went off the record at
18 11:56 a.m.)